

**CITY OF MORGAN HILL
JOINT REGULAR CITY COUNCIL AND
REDEVELOPMENT AGENCY MEETING
MINUTES – JUNE 16, 2010**

CALL TO ORDER

Mayor/Chair Tate called the Joint Regular City Council and Redevelopment Agency meeting to order at 7:00 p.m.

ROLL CALL ATTENDANCE

Present: Council Members: Carr, Lee, Librers, Sellers, Tate
Absent: Council Members: None

DECLARATION OF POSTING OF AGENDA

Deputy City Clerk McVay certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

PROCLAMATIONS / RECOGNITIONS / INTRODUCTIONS

None to present.

CITY COUNCIL REPORTS

Council Member Lee reported on a stakeholder meeting for the Barry Swenson Builders community outreach for the downtown renovations and shared that additional meetings will be set. Council Member Lee also shared that her term as Chair of SCRAW is complete and that Council Member Carr was appointed as Vice Chair and Gilroy Council Member Dillon was appointed as chair.

Mayor Tate reported on his attendance at a regional cities meeting concerning taking a regional approach to reducing gangs and gang violence.

CITY MANAGER'S REPORT

City Manager Tewes had no reports.

CITY ATTORNEY'S REPORT

City Attorney Wan had no reports, although shared his 560-mile bicycle ride experience. He also shared that Item 17 has two supplemental items and that supplement 1 is the contract and supplement 2 includes approval of a resolution concerning the waiver of bidding.

OTHER REPORTS

None reported

PUBLIC COMMENT

None requested.

City Council and Redevelopment Agency Action

ADOPTION OF AGENDA

Mayor/Chair Tate announced that there were no changes to the Agenda, although shared that Item 20 be heard immediately following Item 14.

Action: *On a motion by Council/Agency Member Lee and seconded by Council/Agency Member Librers Adopting the Agenda as posted. The motion passed by the following vote: Ayes: 5; Noes: 0; Absent: 0.*

City Council Action

CONSENT CALENDAR

Action: *On a motion by Council/Agency Member Sellers and seconded by Council/Agency Member Carr Approving the Consent Calendar Items 1 through 13. The motion passed by the following vote: Ayes: 5; Noes: 0; Absent: 0.*

1. **Concessionaire License Agreement First Amendment**
Recommended Action(s):
 1. Approving the concessionaire license agreement first amendment with Lickin' Good, Inc; and
 2. Authorizing the City Manager to execute the contract on behalf of the City.
2. **Water Conservation Memorandum of Understanding with Santa Clara Valley Water District**
Recommended Action(s): Authorizing the City Manager to execute the attached Memorandum of Understanding (MOU) with the Santa Clara Valley Water District subject to the inclusion of funding in the adopted FY 10/11 City Budget.
3. **Extend the Cable Television Access Agreement with Media Access Coalition of Central California (MACCC)**
Recommended Action(s): Authorizing the City Manager to execute amendment 4 with Media Access Coalition of Central California (MACCC) for a two-month extension.
4. **Exception to Loss of Building Allocation: ELBA 10-06: E. Main - Ahlin**
Recommended Action(s): Adopting Resolution No. 6333 granting an exception to loss of building allotment.
5. **Exception to Loss of Building Allotment: ELBA 10-05: Del Monte - Giovanni**
Recommended Action(s): Adopting Resolution No. 6334 granting an exception to loss of building allotment (ELBA).

6. **Exception to Loss of Building Allotment: ELBA 10-04: E. Dunne - Kruse**
Recommended Action(s): Adopting Resolution No. 6335 granting an exception to loss of building allotment.
7. **May 2010 Financial & Investment Reports**
Recommended Action(s): Accepting and filing report.
8. **Award Contract for the Community and Cultural Center Spray Feature Resurfacing Project**
Recommended Action(s):
 1. **Awarding** construction contract to Blossom Valley Construction for \$34,020; and
 2. **Authorizing** contingency funds of \$3,402; and
 3. **Authorizing** the City Manager to execute the contract on behalf of the City.
9. **2009 Annual Consumer Confidence Report Regarding Water Quality - Correction**
Recommended Action(s): For Council information only.

Redevelopment Agency Action

CONSENT CALENDAR:

10. **May 2010 Financial & Investment Reports**
Recommended Action(s): Accepting and filing report.

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

11. **Approving the Joint Special City Council and Redevelopment Agency Meeting Minutes for May 28, 2010**
12. **Approving the Joint Regular City Council and Redevelopment Agency Meeting Minutes for June 2, 2010**
13. **Acceptance of Aquatics Center Landscape Conversion Project**
Recommended Action(s):
 1. **Accepting** as complete the Aquatics Center Landscape Conversion Project in the final amount of \$92,691; and
 2. **Directing** the City Clerk to file the attached Notice of Completion with the County Recorder's office.

City Council and Redevelopment Agency Action

OTHER BUSINESS:

14. Adopt the Fiscal Year 2010-11 Operating and Capital Improvement Program Budget and Adopt the Fiscal Year 2010-11 Appropriations Limit and Approve Fiscal Year 2010-11 Department Workplans

Recommended Action(s):

1. As City Council, **Approve** Resolution of the City of Morgan Hill adopting the fiscal year 2010-11 Operating and CIP Budget and adopting appropriations limit for fiscal year 2010-11; and
2. As Redevelopment Agency Board, **Approve** Resolution of the Redevelopment Agency of Morgan Hill adopting the fiscal year 2010-11 Agency Budget; and
3. **Approve** the Five Year Capital Improvement Plan; and
4. **Approve** FY 2010-11 Department Workplans.

City Manager Tewes shared the budget process and method in arriving at this point, in addition to sharing that employees will experience layoffs due to budget adjustments for the Fiscal Year End 2011.

In response to Council Member Sellers concerning identifying funds for the 211 Program, City Manager Tewes shared that \$5,000 was funded in the prior Fiscal Year and shared statistics for the 211 program that affect the City of Morgan Hill.

Mayor Tate opened the public comment.

Frank Manocchio spoke in regards to the CIP budget projects.

In response to Council Member Lee concerning suggested items to reduce or eliminate, Mr. Manocchio suggested that the Santa Teresa Project be discontinued and in its place complete, the Butterfield project prior to starting a new project such as West Dunne.

Hearing no further requests to speak, the public comment was closed.

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr **Approving** \$2,500 in funding for the 211 Program.*

In response to Council Member Lee concerning funding sources, Council Member Sellers requested an additional reduction in Council Services.

In response to Council Member Carr concerning use of CDBG funding, City Manager Tewes shared that CDBG funding has not been used in the past.

Council Member Carr withdrew his second on the motion to fund the 211 program.

Council Member Sellers requested that staff contact the 211 program to inform them that funding would not be provided and that the City will continue to seek other funding opportunities in the future.

Motion dies for lack of a second.

Council Member Librers requested clarification on the Workplans for the Finance Department on page 146 concerning implementing new employment benefit funds, Finance Director Riper shared that this goal avoids large expenditures by charging departments annually to cover expenses when an employee leaves office or retires.

In response to Council Member Librers requesting that the Senior Center Task Force be added to the Recreation and Community Services workplan, Recreation and Community Services Director Rymer shared that the Task Force item will be added to the workplan.

Action: *On a motion by Council/Agency Member Sellers and seconded by Council/Agency Librers **Approving** Resolution No. 6336 of the City of Morgan Hill adopting the fiscal year 2010-11 Operating and CIP Budget and adopting appropriations limit for fiscal year 2010-11; and as Redevelopment Agency Board, **Approving** Resolution No. MHRA-316 of the Redevelopment Agency of Morgan Hill adopting the fiscal year 2010-11 Agency Budget; **Approving** the Five Year Capital Improvement Plan; and **Approving** FY 2010-11 Department Workplans. The motion passed by the following vote: Ayes: 5; Noes: 0; Absent: 0.*

The City Council spoke of sacrifices made by employees and the decisions required to balance the budget.

City Council Redevelopment Agency Item 15 was heard out of order following City Council Other Business Item 20.

City Council Action

PUBLIC HEARINGS:

15. 2010 Brush Abatement Program Commencement Report and Public Hearing
Recommended Action(s)

1. **Open/Close** public hearing; and
2. **Accept** 2010 Brush Abatement Program Commencement Report.

Environmental Programs Administrator Eulo presented the staff report.

Mayor Tate opened the public hearing at 8:52 p.m. hearing no requests to speak. The public hearing was closed.

Action: *On a motion by Council Member Sellers and seconded by Council Member Lee **Accepting** 2010 Brush Abatement Program Commencement Report. The motion passed by the following vote: Ayes: 4; Noes: 0; Absent: 1 (Librers).*

Redevelopment Agency Action

PUBLIC HEARINGS:

16. Sale of BMR Unit at 16940 Cory Lane Using the Equity Share Pilot Program

Recommended Action(s)

1. **Conduct** public hearing; and
2. **Adopt** Resolution authorizing the Executive Director to do everything necessary and appropriate to execute agreements and related documents selling the BMR unit at 16940 Cory Lane to Elio Robles for \$264,000, less the Agency's share of closing/escrow costs, and using the equity share pilot program based on the parameters outlined in this staff report.

Business and Housing Assistance Toy presented the staff report and announced corrections to the staff report based on pricing for four (3) bedroom homes versus four (4) bedroom homes.

In response to Agency Member Lee concerning \$201,500 equity rate at 0 % interest. Business and Housing Assistance Toy confirmed that the interest rate is at 0% interest and becomes part of the equity share.

In response to Agency Member Lee concerning housing foreclosures affects, Business and Housing Assistance Toy shared that the Agency would review BMR policies and protect the Agencies vested interest to protect property

Chair Tate opened the public hearing at 8:57 p.m. hearing no requests to speak. The public hearing was closed.

Action: *On a motion by Agency Member Sellers and seconded by Agency Member Carr **Adopting** Resolution No. 6337 authorizing the Executive Director to do everything necessary and appropriate to execute agreements and related documents selling the BMR unit at 16940 Cory Lane to Elio Robles for \$264,000, less the Agency's share of closing/escrow costs, and using the equity share pilot program based on the parameters outlined in this staff report. The motion passed by the following vote: Ayes: 4; Noes: 0; Absent: 1 (Librers).*

City Council Action

OTHER BUSINESS:

17. Morgan Hill Youth Sports Alliance Outdoor Sports Center Concessionaire Agreement (two (2) Supplements)

Recommended Action(s):

1. **Approve** the Morgan Hill Youth Sports Alliance Outdoor Sports Center concessionaire agreement; and
2. **Authorize** the City Manager to execute the contract of behalf of the City.

Recreation and Community Services Director Rymer presented the staff report highlighting the supplements presented and outlined some of the contract terms as having a five year term, providing

for a 24-month update, 180-day termination clause without cause, and formal review of operations at year two to meet performance goals.

Mayor Tate opened the public comment, hearing no requests to speak. The public comment was closed.

Action: *On a motion by Council Member Carr and seconded by Council Member Sellers **Approving** Resolution No. 6338 approving the Morgan Hill Youth Sports Alliance Outdoor Sports Center concessionaire agreement; and **Authorizing** the City Manager to execute the contract of behalf of the City. The motion passed by the following vote: Ayes: 4; Noes: 0; Absent: 1 (Librers).*

18. Landscape Assessment District Number 1 (Fox Hollow) Setting of Annual Public Hearing

Recommended Action(s): Approve the attached Resolutions which:

1. Adopt Resolution Initiating the proceedings for the levy of assessments for fiscal year 2010-11;
2. Adopt Resolution approving the engineer's Annual Report (Exhibit B) and the proposed assessment levy; and
3. Adopt Resolution Declaring the City Council's intention to levy the assessments in the district and to set the Public Hearing date for July 21, 2010;
4. Adopt Resolution Changing the name of the district.

Environmental Programs Administrator Eulo presented the staff report.

Mayor Tate opened the public comment, hearing no requests to speak. The public comment was closed.

Action: *On a motion by Council Member Sellers and seconded by Council Member Lee **Adopting** Resolution No. 6339 Initiating the proceedings for the levy of assessments for fiscal year 2010-11; **Adopting** Resolution No. 6340 approving the engineer's Annual Report (Exhibit B) and the proposed assessment levy; **Adopting** Resolution No. 6341 Declaring the City Council's intention to levy the assessments in the district and to set the Public Hearing date for July 21, 2010; and **Adopting** Resolution No. 6342 Changing the name of the district. The motion passed by the following vote: Ayes: 4; Noes: 0; Absent: 1 (Librers).*

19. General Plan Update Process

Recommended Action(s)

1. **Open/Close** Public Hearing; and
2. **Accept** the report on the General Plan update process.

Interim Community Development Director Piasecki presented the staff report.

Mayor Tate opened the public hearing at 9:09 p.m. hearing no requests to speak. The public comment was closed.

In response to Council Member Sellers concerning the next General Plan Update and community involvement, Interim Community Development Director Piasecki shared that the next update will occur in 2011 and confirmed that the community will be involved.

In response to Council Member Lee concerning sufficient development and percentage increase and the EIR, Interim Community Development Director Piasecki shared that the City is hoping to see adequate increases based on the current minor increases; and that the City will begin preliminary work on the EIR in 2013 and is demonstrated on page 271.

***Action:** On a motion by Council Member Sellers and seconded by Council Member Carr Accepting the report on the General Plan update process. The motion passed by the following vote: Ayes: 4; Noes: 0; Absent: 1 (Librers).*

City Council Other Business Item 20 was heard following City Council Redevelopment Agency Item 14

20. **A Resolution of the City Council of the City of Morgan Hill Certifying to the Department of Alcoholic Beverage Control that the Public Safety Health or Welfare Requires an Immediate Hearing of Accusations Regarding Licensees Dirty's Tap & Tacos and M&H Tavern**
Recommended Action(s): Adopt the Resolution certifying a request for an immediate hearing.

Chief Cumming presented the staff report.

In response to Council Member Lee concerning the priority of the incidents at M&H Tavern, Chief Cumming shared that the most recent event was extraordinarily large and shared that communications between the Police Department and M&H Tavern and Alcoholic Beverage Control (ABC) have occurred.

In response to Council Member Lee concerning the focus on this establishment at this time, Chief Cumming this along with other business are being addressed due to stabbings, shooting and fighting.

Council Member Sellers spoke of past incidents especially during holiday weekends and increasing numbers in 2008 and the cause for the increases. Chief Cumming stated that the increases are in part due to two problem bars creating a different atmosphere and crowd during later hours. Chief Cumming also commented on the complaints concerning behavior that do not rise to level of stabbing although are disturbing to residents.

In response to Council Member Librers concerning actions taken by ABC, Chief Cumming shared ABC can take several actions including do nothing, give warning, and suspend or revoke licenses. Chief Cumming added that local police comments and reports are a factor during the review process.

In response to Council Member Librers concerning security, Chief Cumming shared that security is provided although does not believe it is adequate.

In response to Council Member Librers concerning ABC suggesting additional security and food services, Chief Cumming shared that ABC has several options and that ultimately good business is about the business plan.

In response to Council Member Carr concerning local input and having better partners, Chief Cummings suggested that bars eliminate trouble, increase security, zero tolerance for trouble and close earlier.

In response to Council Member Librers concerning investigative costs to establishments, Chief Cumming does not believe so, although there could be fines.

Mayor Tate opened the public comment.

The following speakers spoke on Item 20.

- Sean Adams
- Kathie KingstonToombs
- Teresa Glover
- Brad Ledwith
- Susan Hall
- Laura Gonzalez Escoto
- Dwight Dorcey
- Adolf Sanchez
- John Starling

Hearing no further requests to speak, the public comment was closed.

In response to Council Member Lee concerning refusing alcohol service if drunk and operating hours for M&H, Chief Cumming confirmed sharing that is law and M&H is open until 2:00 a.m.

Council Member Sellers spoke of the incident downtown on May 29 and the expense to the City for this emergency and the danger to the community; and spoke of the differences between the two establishments, changes anticipated and requested that the each be addressed as separate items.

Council Member Librers requested further monitoring of the establishment and provide M&H an opportunity to turn things around.

Council Member Carr spoke of the steps necessary by the Police Chief and now that business owners affected there is a concern, and supports a non-violent nightlife. Council Member Carr commented on the death not being of interest, although City Council consideration of recommending that ABC pull a license from a business takes on more significance. Council Member Carr supports taking the recommended action and hopes that it will curb the violence; and suggested reviewing downtown events, hours of operation and the impacts of more or less security.

Council Member Lee supports certifying the recommendation and supports more safety for downtown and Morgan Hill residents.

Mayor Tate does not support the recommended action for an immediate hearing and allow the business owners to address the issues, and should further incidents occur, then he would support certifying a resolution for a hearing by ABC. Mayor Tate shared that violence is driven by gangs and zero tolerance should be prominent and enforced in Morgan Hill and in downtown establishments.

Council Member Sellers made a Motion to evaluate City events and discuss downtown events with the Chamber of Commerce, consider reconfiguring events and suggested deferral of action to the first meeting in August for additional information.

In response to Council Member Lee concerning moving forward with certifying the resolution, what are the impacts to M&H, City Attorney Wan shared that the City's Resolution requests that ABC to hold a hearing in 60 days, and that M&H can continue to do business until ABC reviews, suspends, or take other actions on the liquor license.

Council Member Carr commented on what results the Council wants and timeframe for the goal and the impacts if goals are not reached.

Council Member Sellers shared that both businesses outline business plans, make construction improvements, security and other changes.

The City Council discussed whether additional activities occur, meetings between the Chamber and the bars and a proposed plan, a timeframe, violence when properties are not controlled. The Council also discussed speeding up security and establishing zero tolerance, when violence does not occur in an establishment.

Council Member Carr shared his concerns with waiting 60 days and then recommending ABC review.

Council Member Sellers amended his motion to return for Council consideration on July 21 and seconded by Council Member Librers.

Action: *On a motion by Council Member Sellers and seconded by Council Member Librers **Evaluating** City events and discussing downtown events with the Chamber of Commerce, consider reconfiguring events and to revisit certifying a resolution for a hearing on July 21. The motion passed by the following vote: Ayes: 5; Noes: 0; Absent: 0.*

Mayor Tate called a recess at 8:42 p.m. and reconvened the meeting at 8:51 p.m.

Council Member Librers left the meeting due to previously scheduled travel.

21. Council Consideration and Direction on Converting Elected City Clerk and Treasurer Positions

Recommended Action(s):

1. **Accept** staff report; and
2. **Provide** direction to staff on whether to prepare the necessary materials for a Council vote at a future meeting on whether to place a Ballot Measure on the November 2010 ballot regarding the City Clerk & Treasurer positions.

Assistant to the City Manager Stott presented the staff report.

Mayor Tate opened the public comment, hearing no requests to speak. The public comment was closed.

Mayor Tate shared his discussions with the City Clerk and City Treasurer concerning the elected positions.

City Manager Tewes shared that there currently are not any issues to be concerned with, although it is possible that both elected positions could have persons elected that do not have the qualifications needed for the positions. City Manager Tewes shared that Treasurer Roorda is very involved in consulting on investments as the elected treasurer.

In response to Council Member Lee concerning positions being appointed by the Council or City Manager, Assistant to the City Manager shared that in Campbell's case, it is intended that the position will be a Council appointment.

Mayor Tate shared that Treasurer Roorda is interested in continuing as the elected treasurer.

Council Member Sellers shared the importance of having experienced persons in the positions.

Council Member Lee spoke of the costs to hold initiative and the source of funding for the initiatives.

City Attorney Wan shared that both questions will be one ballot initiative.

City Manager Tewes shared that if seconded and the motion passes, staff will return at the next meeting with a resolution calling the election stating the ballot question.

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr **Directing** staff to return with a resolution for a Ballot Measure on the November 2010 ballot regarding the City Clerk & Treasurer positions including funding sources. The motion passed by the following vote: Ayes: 3; Noes: 1 (Lee); Absent: 1 (Librers).*

FUTURE COUNCIL AGENCY-INITIATED AGENDA ITEMS:

Mayor Tate requested that the Morgan Hill Downtown Association requested review of the City of Campbell's alcohol policy for Morgan Hill.

Mayor/Chair Tate convened to the Joint Regular City Council meeting to closed session meeting at 8:28 p.m.

City Council Action

CLOSED SESSION:

City Attorney Wan read the closed session item into the record.

OPPORTUNITY FOR PUBLIC COMMENT

None.

ADJOURN TO CLOSED SESSION

CONFERENCE WITH LABOR NEGOTIATOR:

Authority:	Pursuant to Government Code Section 54957.6
City Negotiators:	City Manager, City Attorney, Assistant to the City Manager
Employee Organization:	Morgan Hill Police Officers Association
	Employees Covered under Management Resolution #6304
	AFSCME Local 101

City Council and Redevelopment Agency Action

CLOSED SESSION:

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Pursuant to:	Government Code Section 54956.9(c)
Number of Cases:	One (1)

RECONVENE

Mayor/Chair Tate reconvened the meeting at 10:12 p.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney Wan reported that no reportable action was taken during closed session.

ADJOURNMENT

There being no further business, Mayor/Chair Tate adjourned the meeting at 10:12 p.m.

MINUTES PREPARED BY:



TINA McVAY, DEPUTY CITY CLERK